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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,064	02/06/2004	James Curtis Stender	12295.20US01	4807

7590 03/23/2005

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EXAMINER
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UNDERWOOD, DONALD W

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 <b>Office Action Summary</b>	Application No. 10/774,064	Applicant(s) STENDER ET AL.	
	Examiner Donald Underwood	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☐ Claim(s) 1-29 is/are pending in the application.  
4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-28 is/are allowed.
- 6) ☒ Claim(s) 1-14 and 29 is/are rejected.
- 7) ☒ Claim(s) 15-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02/06/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                                             |                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                        | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>062104</u> . | 6) <input type="checkbox"/> Other: _____                                                |

### **Detailed Action**

1. The drawing is objected to under 37 CFR 1.84 for the following reasons. "30" and its arrow in the upper left quadrant of figure 1 is incorrect and should be deleted. 30 and its lead line in the upper right quadrant of figure 1 is correct. "148" approximate the center of figure 1 should be —48—. See figure 2. The lead line for 108 in figure 4 is incorrect. It should denote the panel and not the pivot. Correction of the above informalities is required. The introduction of new matter should be guarded against.

2. The omitted serial numbers of relate cases on pages 9, 11, 12 and 13 of the specification should be provided by applicant.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 ends in a semi-colon and thus it appears structure is missing.

Clarification is required.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaczmarczyk et al in view of Rae et al.

Kaczmarczyk discloses all of the claimed elements except his hoses are attached to the outside of the tower subframe.

Rae teaches routing hoses through an arm.

It would have been obvious to route the hoses attached to the outside of the subframe in Kaczmarczyk inside the subframe in view of the teaching in Rae.

8. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaczmarczyk et al in view of Rae et al as applied to claim 13 above, and further in view of MacGregor et al.

It would have been obvious to connect the hydraulic lines in Kaczmarczyk after the brackets and towers are engaged in view of the teaching in MacGregor to connect his lines after engaging elements 48 and 68.

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9. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaczmarczyk et al in view of MacGregor et al as applied in the preceding paragraph.

The limitation of having hydraulic lines extending within the subframe is moot since this arrangement does not affect the method in a manipulative sense. See Ex parte Pfeiffer, 1962 C.D. 408 (1961).

10. Claims 15-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 19-28 are allowed.

12. Any inquiry concerning this communication should be directed to D. Underwood at telephone number (703) 308-1113.

Underwood/vs  
March 9, 2005

*Donald W. Underwood 03/18/05*  
**RONALD W. UNDERWOOD**  
**PRIMARY EXAMINER**